

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
714 P STREET, SACRAMENTO 95814

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REFER TO:

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N O T I C E
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Attached is Precedent Benefit Decision No. P-B-234-A.

In CALIFORNIA HOSPITAL ASSOCIATION, et al. v. CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD (95 CA 3rd 207, 157 Cal. Rptr. 38) the Court of Appeal granted the declaratory relief sought by the petitioner and invalidated Precedent Benefit Decision P-B-234. Accordingly, pursuant to the provisions of section 409.1 of the Unemployment Insurance Appeals Board, the Board has overruled and set aside P-B-234. That decision is no longer of any force or effect.

It is appropriate that this new precedent benefit decision (P-B-234-A) be filed in a manner that will clearly indicate that P-B-234 has been overruled and an annotation to that effect should be entered on P-B-234 itself.


Lionel L. Riave
Chief Counsel

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

LUPE BEARD
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-234-A
Case No. 75-8576-A

S.S.A. No. .

HOLLENBECK HOME FOR THE AGED
(Employer)

Employer Account No.

Referee's Decision No. LA-16705

On February 11, 1976 pursuant to the provisions of section 409 of the Unemployment Insurance Code this Board promulgated and issued Precedent Benefit Decision No. P-B-234 (Case No. 75-8576) dismissing the appeal of the employer who did not maintain a reserve account. The Board predicated its holding on the ground that section 1335 of the code provides for continuing payment of benefits to a claimant if the original determination of the Department and the decision of the Administrative Law Judge are favorable to the claimant. Accordingly, as the employer did not maintain a reserve account, no relief could be afforded and any decision on the merits would be advisory only.

121-04275

DATE MAILED: October 25, 1979

Subsequently, an action for declaratory relief was filed in the Superior Court of the State of California in and for the County of Los Angeles, Case No. C 191064, requesting the court to invalidate Precedent Decision No. P-B-234.

After a hearing before the court the Honorable Charles H. Phillips, Judge of the Superior Court, granted summary judgment declaring P-B-234 invalid.

An appeal was taken by this Board to the Court of Appeal, Second Appellate District (2d Civil No. 55094). That court sustained the judgment of the Superior Court and held that P-B-234 was invalid.

Accordingly, pursuant to the decision of the court, and in conformance with the provisions of section 409.1 of the Unemployment Insurance Code, we reverse our holding and declare invalid for all purposes our decision in P-B-234 (Case No. 75-8576).

DON BLEWETT

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